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To:

NAME:	FACSIMILE:	TELEPHONE:
Mail Stop Amendment Commissioner for Patents U.S. Patent and Trademark Office	571-273-8300	571-272-4802

FROM: Rick Shoop

DATE: October 12, 2005

Number of pages with cover page:	9	Originals Will Not Follow
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Preparer of this slip has confirmed that facsimile number given is correct: 10852/say4

Comments:

Attorney Docket No.: 578632000201
 Group Art Unit: 3743
 Examiner: M. Patel
 Serial No.: 10/827,073
 Filing Date: April 19, 2004
 Inventor: Rajiv DOSHI
 Title: METHODS AND DEVICES FOR IMPROVING BREATHING IN PATIENTS
 WITH PULMONARY DISEASE

Papers attached:

1. Transmittal (1 page)
2. Fee Transmittal plus duplicate for fee processing (2 pages)
3. Information Disclosure Statement (3 pages)
4. Form PTO/SB/08a/b (2 pages)

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PTO/SB/21 (09-04)

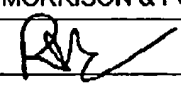
Approved for use through 07/31/2006. OMB 0851-0031

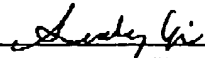
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<h1 style="text-align: center;">TRANSMITTAL FORM</h1> <p style="text-align: center;"><i>(to be used for all correspondence after initial filing)</i></p>		Application Number	10/827,073
		Filing Date	April 19, 2004
		First Named Inventor	Rajiv DOSHI
		Art Unit	3743
		Examiner Name	M. Patel
Total Number of Pages in This Submission	8	Attorney Docket Number	578632000201

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form plus duplicate for fee processing (2 pages) <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement (3 pages) <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1. Form PTO/SB/08a/b (2 pages) 2. Fax Cover Sheet
<div style="border: 1px solid black; padding: 5px;">Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	MORRISON & FOERSTER LLP (Customer No. 25226)		
Signature			
Printed name	Rick Shoop		
Date	October 12, 2005	Reg. No.	45,763

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Dated: October 12, 2005	Signature:  (Sandy Yi)

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PAGE 2/9 * RCVD AT 10/12/2005 2:43:49 PM [Eastern Daylight Time] * SVR:USPTO-EFXXF-6/29 * DNIS:2738300 * CSID:650 813 5993 * DURATION (mm-ss):02:42

OCT 12 2005

PTO/SB/17 (12-04v2)

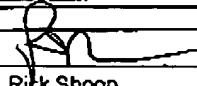
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Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2005		Complete if Known Application Number 10/827,073 Filing Date April 19, 2004 First Named Inventor Rajiv DOSHI Examiner Name M. Patel Art Unit 3743 Attorney Docket No. 578632000201	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27			
TOTAL AMOUNT OF PAYMENT	(\$)	180.00	

METHOD OF PAYMENT (check all that apply)	
<input type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> None <input type="checkbox"/> Other (please identify): _____	
<input checked="" type="checkbox"/> Deposit Account Deposit Account Number: 03-1952 Deposit Account Name: Morrison & Foerster LLP	
For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)	
<input checked="" type="checkbox"/> Charge fee(s) indicated below	<input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee
<input checked="" type="checkbox"/> Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17	<input checked="" type="checkbox"/> Credit any overpayments

FEE CALCULATION																					
1. BASIC FILING, SEARCH, AND EXAMINATION FEES																					
Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)														
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)															
Utility	300	150	500	250	200	100	0.00														
Design	200	100	100	50	130	65	0.00														
Plant	200	100	300	150	160	80	0.00														
Reissue	300	150	500	250	600	300	0.00														
Provisional	200	100	0	0	0	0	0.00														
2. EXCESS CLAIM FEES																					
Fee Description							Small Entity Fee (\$)														
Each claim over 20 (including Reissues)							50														
Each independent claim over 3 (including Reissues)							200														
Multiple dependent claims							360														
<table border="0"> <tr> <td><u>Total Claims</u></td> <td><u>Extra Claims</u></td> <td><u>Fee (\$)</u></td> <td><u>Fee Paid (\$)</u></td> <td><u>Multiple Dependent Claims</u></td> <td><u>Fee (\$)</u></td> <td><u>Fee Paid (\$)</u></td> </tr> <tr> <td>33</td> <td>- 34 = 0</td> <td>x 25.00 =</td> <td>0.00</td> <td>180.00</td> <td></td> <td>0.00</td> </tr> </table>							<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Multiple Dependent Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	33	- 34 = 0	x 25.00 =	0.00	180.00		0.00	
<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Multiple Dependent Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>															
33	- 34 = 0	x 25.00 =	0.00	180.00		0.00															
<table border="0"> <tr> <td><u>Indep. Claims</u></td> <td><u>Extra Claims</u></td> <td><u>Fee (\$)</u></td> <td><u>Fee Paid (\$)</u></td> </tr> <tr> <td>6</td> <td>- 6 = 0</td> <td>x 100.00 =</td> <td>0.00</td> </tr> </table>							<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	6	- 6 = 0	x 100.00 =	0.00							
<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>																		
6	- 6 = 0	x 100.00 =	0.00																		
3. APPLICATION SIZE FEE																					
If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).																					
<table border="0"> <tr> <td><u>Total Sheets</u></td> <td><u>Extra Sheets</u></td> <td><u>Number of each additional 50 or fraction thereof</u></td> <td><u>Fee (\$)</u></td> <td><u>Fee Paid (\$)</u></td> </tr> <tr> <td>- 100 =</td> <td>/50</td> <td>(round up to a whole number) x</td> <td>125.00 =</td> <td>0.00</td> </tr> </table>							<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	- 100 =	/50	(round up to a whole number) x	125.00 =	0.00					
<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>																	
- 100 =	/50	(round up to a whole number) x	125.00 =	0.00																	
4. OTHER FEE(S)																					
Non-English Specification, \$130 fee (no small entity discount)																					
Other (e.g., late filing surcharge): 1806 Submission of an Information Disclosure Statement							180.00														

SUBMITTED BY			
Signature		Registration No. (Attorney/Agent)	45,763
Name (Print/Type)	Rick Shoop	Telephone	(650) 813-5804
		Date	October 12, 2005

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PATENT

Docket No. 578632000201

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Dated: October 12, 2005

Signature: *Sandy Yi*
(Sandy Yi)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Rajiv DOSHI

Serial No.: 10/827,073

Filing Date: April 19, 2004

For: METHODS AND DEVICES FOR
IMPROVING BREATHING IN
PATIENTS WITH PULMONARY
DISEASE

Examiner: M. Patel

Group Art Unit: 3743

INFORMATION DISCLOSURE
STATEMENT UNDER 37 C.F.R. § 1.97 & 1.98

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. § 1.97 and § 1.98, Applicant submits for consideration in the above-identified application the documents listed on the attached Form PTO/SB/08a/b. U.S. Patents/Patent Applications numbered 13-15, 59 and 60 are not submitted herewith. However, copies of the remaining documents cited in the attached Form PTO/SB/08a/b were previously submitted in an Information Disclosure Statement and/or Office Action, directed to the related application Serial Number 09/881,862, filed June 14, 2001, and, accordingly, copies are not included herewith. This protocol conforms with 37 C.F.R. § 1.98(d) and M.P.E.P. 609(A)(2). The Examiner is requested to make these documents of record in the application.

10/13/2005 EAREGAY1 00000053 031952 10827073

01 FC:1806 180.00 DA

Application Serial No. 10/827,073

PATENT
Docket No. 578632000201

This Information Disclosure Statement is submitted:

- ☐ With the application; accordingly, no fee or separate requirements are required.
- ☐ Before the mailing of a first Office Action after the filing of a Request for Continued Examination under § 1.114. However, if applicable, a certification under 37 C.F.R. § 1.97 (e)(1) has been provided.
- ☐ Within three months of the application filing date or before mailing of a first Office Action on the merits; accordingly, no fee or separate requirements are required. However, if applicable, a certification under 37 C.F.R. § 1.97 (e)(1) has been provided.
- ☒ After receipt of a first Office Action on the merits but before mailing of a final Office Action or Notice of Allowance.
 - ☐ A fee is required. A check in the amount of __ is enclosed.
 - ☒ A fee is required. Accordingly, a Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.
 - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above; accordingly, no fee is believed to be due.
- ☐ After mailing of a final Office Action or Notice of Allowance, but before payment of the issue fee.
 - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a check in the amount of __ is enclosed.
 - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a Fee Transmittal form (PTO/SB/17 is attached to this submission in duplicate.)

Applicant would appreciate the Examiner initialing and returning the Form PTO/SB/08a/b, indicating that the information has been considered and made of record herein.

The information contained in this Information Disclosure Statement under 37 C.F.R. § 1.97 and § 1.98 is not to be construed as a representation that: (i) a complete search has been made; (ii) additional information material to the examination of this application does not exist;

Application Serial No. 10/827,073


PATENT
Docket No. 578632000201

(iii) the information, protocols, results and the like reported by third parties are accurate or enabling;
or (iv) the above information constitutes prior art to the subject invention.

In the unlikely event that the transmittal form is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief (such as payment of a fee under 37 C.F.R. § 1.17 (p)) is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petition and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing 578632000201.

Dated: October 12, 2005

Respectfully submitted,

By 
Richard D. Shoop
Registration No.: 45,763

MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, California 94304-1018
(650)813-5804

pa-967688

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ALTERNATIVE TO PTO/SB/08 a/b (05-03)

Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)		Complete, if Known			
		Application Number	10/827,073		
		Filing Date	April 19, 2004		
		First Named Inventor	Rajiv DOSHI		
		Art Unit	3743		
		Examiner Name	M. Patel		
Sheet	1	of	2	Attorney Docket Number	578632000201

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number Number-Kind Code ² (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	1.	US-2001/0037808-A1	11-08-2001	Deem et al.	
	2.	US-2001/0051799-A1	12-13-2001	Ingenito	
	3.	US-2001/0056274-A1	12-27-2001	Perkins et al.	
	4.	US-2002/0062120-A1	06-23-2002	Perkins et al.	
	5.	US-2002/0077593-A1	06-20-2002	Perkins et al.	
	6.	US-2002/0112729-A1	08-22-2002	DeVore et al.	
	7.	US-2003/0024527-A1	02-06-2003	Ginn	
	8.	US-2003/0050648-A1	03-13-2003	Alferness et al.	
	9.	US-2003/0070682-A1	04-17-2003	Wilson et al.	
	10.	US-2003/0083671-A1	05-01-2003	Rimbaugh et al.	
	11.	US-2003/0154988-A1	08-21-2003	DeVore et al.	
	12.	US-2003/0158515-A1	08-21-2003	Gonzalez et al.	
	13.	US-2004/0055608-A1	03-25-2004	Hendricksen et al.	
	14.	US-2004/0261791-A1	12-30-2004	Horian	
	15.	US-2005/0033344-A1	02-10-2005	Dillar et al.	
	16.	US-Re. 31,040-E	09-28-1982	Possis	
	17.	US-3,370,305-A	02-27-1968	Goott et al.	
	18.	US-4,040,428-A	08-09-1977	Clifford	
	19.	US-4,403,616-A	09-13-1983	King	
	20.	US-4,456,016-A	06-26-1984	Nowacki et al.	
	21.	US-4,533,137-A	08-06-1985	Sonne	
	22.	US-4,582,058-A	04-15-1986	Depel et al.	
	23.	US-4,822,354-A	04-18-1989	Elosegui	
	24.	US-4,908,028-A	03-13-1990	Colon et al.	
	25.	US-4,973,047-A	11-27-1990	Norell	
	26.	US-4,979,505-A	12-25-1990	Cox	
	27.	US-4,984,581-A	01-15-1991	Stice	
	28.	US-5,033,312-A	07-23-1991	Stupecky	
	29.	US-5,038,621-A	08-13-1991	Stupecky	
	30.	US-5,059,208-A	10-22-1991	Coe et al.	
	31.	US-5,078,739-A	01-07-1992	Martin	
	32.	US-5,092,781-A	03-03-1992	Casciotti et al.	
	33.	US-5,197,980-A	03-30-1993	Gorshkov et al.	
	34.	US-5,255,687-A	10-26-1993	McKenna	
	35.	US-5,383,470-A	01-24-1995	Kolbly	
	36.	US-5,391,205-A	02-21-1995	Knight	
	37.	US-5,415,660-A	05-16-1995	Campbell et al.	
	38.	US-5,459,544-A	10-17-1995	Emura	
	39.	US-5,562,641-A	10-08-1996	Flomenblit et al.	
	40.	US-5,607,469-A	03-04-1997	Frey	
	41.	US-5,763,979-A	06-09-1998	Mukherjee et al.	
	42.	US-5,782,896-A	07-21-1998	Chen et al.	
	43.	US-5,797,920-A	08-25-1998	Kim	
	44.	US-5,876,434-A	03-02-1999	Flomenblit et al.	
	45.	US-5,911,756-A	06-15-1999	Debry	
	46.	US-5,954,766-A	09-21-1999	Zadno-Azizi et al.	
	47.	US-5,957,978-A	09-28-1999	Blom	

Examiner Signature		Date Considered	
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pa- 979952

ALTERNATIVE TO PTO/SB/06 a/b (06-03)

Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i>		Complete if Known			
		Application Number	10/827,073		
		Filing Date	April 19, 2004		
		First Named Inventor	Rajiv DOSHI		
		Art Unit	3743		
		Examiner Name	M. Patel		
Sheet	2	of	2	Attorney Docket Number	578632000201

48.	US-6,083,141-A	07-04-2000	Hougen	
49.	US-6,258,100-B1	07-10-2001	Alferness et al.	
50.	US-6,287,290-B1	09-11-2001	Perkins et al.	
51.	US-6,293,951-B1	09-25-2001	Alferness et al.	
52.	US-6,398,775-B1	06-04-2002	Perkins et al.	
53.	US-6,439,233-B1	08-27-2002	Geertsema	
54.	US-6,510,846-B1	01-28-2003	O'Rourke	
55.	US-6,527,761-B1	03-04-2003	Soltesz et al.	
56.	US-6,568,387-B2	05-27-2003	Davenport et al.	
57.	US-6,585,639-B1	07-01-2003	Kotmel et al.	
58.	US-6,592,594-B2	07-15-2003	Rimbaugh et al.	
59.	US-6,679,264-B1	01-20-2004	Deem et al.	
60.	US-6,694,979-B2	02-24-2004	Deem et al.	

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁰
		Country Code ² -Number ³ -Kind Code ⁴ (if known)	MM-DD-YYYY			
	61.	EP-1 157 663-A1	11-28-2001	Sabanathan		
	62.	GB-2,324,729-A	11-04-1998	Bradford Hospitals NHS Trust		
	63.	WO-01/002042-A1	01-11-2001	Pulmonx		
	64.	WO-01/013839-A1	03-01-2001	Spiration, Inc.		
	65.	WO-01/013908-A1	03-16-2001	Star Micronics Co., Ltd.		
	66.	WO-01/087170-A1	11-22-2001	Shaw Medical Inventions, Ltd.		
	67.	WO-02/038038-A2, A3	05-16-2002	Pulmonx		
	68.	WO-03/022124-A2, A3	03-20-2003	Spiration, Inc.		
	69.	WO-03/034927-A	05-01-2003	Spiration, Inc.		

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NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ⁶
	70.	Dillard et al. (June 2002). "Evaluation of a Novel Intra-Bronchial Valve Device to Produce Lung Volume Reduction," <i>Spiration Inc.</i> , Redmond, WA., USA - Poster shown at conference in June 2002.	

*EXAMINER: Initial if information considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ⁶ Applicant is to place a check mark here if English language Translation is attached

Examiner Signature		Date Considered	
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